



Virginia
Commission on Youth

Study of the Establishment of an Office of Children's Services Ombudsman

November 28, 2006

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Presentation Outline

- ❑ Summary and Activities of Study
- Summary of Public Hearings and Comments
- Summary of Advisory Group Activities
- Current Children's Services Structure in Virginia
- Recommendation Options



Office of the Children's Services Ombudsman

- In 2006, Senator Edwards introduced SB 208.
- SB 208 proposed to create, within the legislative branch, the Office of Children's Services Ombudsman.
- Members of the Senate Committee on General Laws and Technology reviewed SB 208 and had several concerns, particularly with the administration of child protection and child welfare laws.
- The Committee sent a letter requesting the Commission on Youth to further study the impact of SB 208.



Office of the Children's Services Ombudsman

Mission

- Protect children and parents from harmful agency action or inaction;
- Investigate the acts of state and local administrative agencies adversely affecting children;
- Recommend appropriate changes toward the goals of safeguarding the rights of children and parents; and
- Promote higher standards of competency, efficiency and justice in the administration of child protection and child welfare laws, juvenile justice services and education of children.



Office of the Children's Services Ombudsman

- In 2005, Senator Edwards introduced SB 1069.
- SB 1069 proposed to create the Office of Children's Services Ombudsman within the Office of the Secretary of Health and Human Resources.
- SB 1069 was referred to the Senate Committee on Rehabilitation & Social Services.
- SB 1069 was stricken at the request of the patron.



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Office of the Children's Services Ombudsman

SB 208 (2006)

- Office located within the legislative branch.
- Mission includes promoting higher competency in *child protection and child welfare laws, juvenile justice services, and education of children.*
- Director would be appointed by the Joint Rules Committee.
- Director would establish procedures for handling complaints about any program or facility that is operated, funded, or licensed by *any state or local agency* that is adversely affecting the health, safety, welfare, or rights of any child.

SB 1069 (2005)

- Office located within the executive branch.
- Mission includes promoting higher competency in *child protection and child welfare laws.*
- Director would be appointed by the Secretary of Health and Human Resources.
- Director would establish procedures for handling complaints about any program or facility that is operated, funded, or licensed by the *Department of Social Services or any other state or local agency* that is adversely affecting the health, safety, welfare, or rights of any child.



2006 Commission on Youth Study Plan

- Evaluate the need for the establishment of an Office of Children's Services Ombudsman in Virginia.
- Identify the appropriate administrative structure of an Office of Children's Services Ombudsman.
- Determine the cost of the establishment of an Office of Children's Services Ombudsman.



Preliminary Identified Issues

- The current welfare system does not provide a central point of contact for children's services wherein complaints can be filed and investigations can be conducted to ensure the health, safety and welfare of children.
- The current welfare system does not offer independent reviews of complaints that have been reported by foster children, foster parents, adoptive parents, family members, children and adolescents, members of the public, community organizations or other interested parties.
- There is a need to provide a mechanism for filing complaints that is external to child-serving agencies.



Preliminary Identified Issues (cont.)

There is a need to:

- Protect children and parents from harmful agency action or inaction.
- Provide a system accountability mechanism to protect the interests of children and their families who are parties in the child welfare system.
- Investigate the acts of state and local administrative agencies adversely affecting children.
- Recommend appropriate changes toward the goals of safeguarding the rights of children and parents.
- Promote higher standards of competency, efficiency and justice in the administration of child protection and child welfare laws, juvenile justice services and education of children.
- Ensure that the Office of Children's Services Ombudsman is not a duplication of services.

Definitions of an Ombudsman

- A public official appointed by the legislature to receive and investigate citizen complaints against administrative acts of government.¹
- Swedish word meaning “agent”, “representative” or “advocate”.
- Oftentimes implies a person or body that acts as a public watchdog or citizen defender.²

¹National Conference of State Legislatures

²American Bar Association



Characteristics of an Ombudsman Independence

- Enables the ombudsman to report findings and make recommendations based exclusively on facts, law, reason and fairness.
- Allows the ombudsman to be free from external influences and control.
- Eliminates any potential or existing prejudice and partiality towards or against a particular entity and/or agency.

Characteristics of an Ombudsman Impartial

- Advocates for a fair process.
- Reviews and receives complaints objectively.
- Ensures neutrality.



Characteristics of an Ombudsman Confidential

- Provides the ombudsman with the privilege and discretion to keep cases and information confidential.
- Protects sensitive information.
- Encourages citizens to make complaints.
- Encourages witnesses and citizens to speak openly and honestly.

Characteristics of an Ombudsman Credible Review Process

- Provides for a thorough and timely review process.
- Enables the ombudsman to operate in a manner that causes citizens to have confidence and respect for the office, as well as being accepted by agencies and related entities.

Uniqueness of a Children's Services Ombudsman

- Provides a system-accountability mechanism for all child-serving agencies, as well as child-serving programs, placements and departments.
- Provides a method of strengthening and promoting public confidence in the child welfare system.
- Provides system-wide improvement recommendations to benefit children and families.
- Serves as a child advocate by ensuring the rights of children and the safety of abused and neglected children.



Virginia Commission on Youth

Needs for Establishing an Children's Services Ombudsman

- Large numbers of cases and delays make the grievance process cumbersome; there is little time for proper investigation of complaints.
- Some disputes are very complex and need more attention than a cursory review can provide.
- Reliance on internal resolution of complaints may lead the public to perceive that factfinders are not really neutral.
- Service providers cannot be insulated from the pressures of their agencies and may not be truthful in expressing grievances or complaints; they may not have the skill or will to judge critically what is wrong or make recommendations.
- Some internal investigators, in fact, may be serving their agencies' desire to keep complaints "under control" (Davidson, 1994).
- By reviewing complaints over time, patterns can be detected that a specific agency may not have recognized.



Virginia Commission on Youth

States with Children's Services Ombudsman Offices

- | | | |
|---|---|------------------|
| ■ Alaska | ■ Kentucky | ■ New York |
| ■ Arizona | ■ Maine | ■ Oklahoma |
| ■ California | ■ Maryland (Office of the Attorney General) | ■ Oregon |
| ■ Colorado (Office of Consumer Relations) | ■ Massachusetts | ■ Rhode Island |
| ■ Connecticut | ■ Michigan | ■ South Carolina |
| ■ Delaware | ■ Missouri | ■ Tennessee |
| ■ Florida | ■ Nebraska | ■ Texas |
| ■ Georgia | ■ New Hampshire | ■ Utah |
| ■ Illinois | ■ New Jersey | ■ Washington |
| ■ Kansas | ■ New Mexico | ■ Wyoming |

Study Activities

- Convened three Advisory Group meetings.
- Held two public hearings and received public comments.
- Interviewed bill patron, local social services directors and parents of special education students.
- Contacted United States Ombudsman Association, American Bar Association, National Conference of State Legislatures and Virginia Youth Advisory Council.
- Conducted extensive background and literature reviews.

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Public Hearings and Comments

- Thursday, July 27 in Norfolk
- Thursday, August 24 in Roanoke

| | |
|---|-----------|
| Total Number of Comments Submitted <i>Including comments submitted directly to the Commission but not presented at a public hearing</i> | 26 |
| Total Number of Public Hearing Speakers | 14 |

Public Hearings and Comments

| CATEGORIES | PERSONS SUBMITTING COMMENTS |
|----------------------------|-----------------------------------|
| Social Services | 12 |
| Private Organizations | 9 |
| Education | 3 |
| Other | 3 |
| Correctional System | 2 |
| Comprehensive Services Act | 2 |

Public Comments

Benefits of Establishing an Office of Children's Services Ombudsman

- The Office would provide a way of protecting children by creating an independent voice for children and their families.
- The Office would help by determining how well providers are or are not integrating services to effectively influence positive changes in the overall children's services structure.
- Children in need deserve an advocate who will support and address their concerns. Those concerns can only be addressed by an independent office.

Public Comments (cont.)

Concerns about Establishing an Office of Children's Services Ombudsman

- There is a great concern about the prioritization of funding. The child welfare system is overwhelmed and under resourced.
- Such an office could further overburden an already overburdened child welfare system, which would result in a diminishing of service capacity and responsiveness rather than improvement of the system.
- Creating such an office may have unintended consequences and may actually leave less available time to serve Virginia's children.
- The responsibilities of this new office, in many cases, would be duplicitous to existing oversight entities.

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Government Agencies Represented on Advisory Group

- Commission on Youth Members
- Court of Appeals
- Department of Education
- Department of Juvenile Justice
- Department of Medical Assistance Services
- Department of Mental Health, Mental Retardation and Substance Abuse Services
- Department of Social Services
- Supreme Court of Virginia
- Office of the Attorney General
- Office of Comprehensive Services
- Office for Protection and Advocacy



Private Organizations and Others Represented on Advisory Group

- Mid-Atlantic Juvenile Defender Center,
University of Richmond School of Law
- Prevent Child Abuse Virginia
- Voices for Virginia's Children
- Parent to Parent of Virginia
- Private Citizen (Advocate)



Advisory Group Agenda Items

- Issues related to SB 208
- Children's services ombudsman structures in various states
- Legislation, principles and models for a children's ombudsman
- *Code* sections of various commission, boards and other government entities that are related to the current children's services structure in Virginia

Advisory Group Agenda Items (cont.)

- Current children's structure in Virginia:
 - Overall structure and complaint processes of various agencies
 - Issues, problems, strengths and weaknesses of the current system
 - Problems that the Office of Children's Services Ombudsman would address

Advisory Group Agenda Items (cont.)

- Administration of an Office of Children's Services Ombudsman in Virginia
 - Jurisdiction
 - Authority and Duties
 - Placement
 - Funding
 - Other (including appointment of Director, possible term limits, etc.)

Relevant Reports Researched by Staff

- *The Child and Family Services Review (CFSR) for the State of Virginia* (U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, 2004).
- *Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care* (Pew Commission on Children in Foster Care, 2003).
- *Foster Care: Voices from the Inside* (Pew Commission on Children in Foster Care, 2003).
- *Model Ombudsman Act for State Governments* (American Bar Association, Administrative Law and Regulatory Practice, 1997).
- *Focusing on Child Welfare Systems: The Role of State Legislators* (National Conference of State Legislators, 2005).
- *Focusing on Child Welfare Systems: Collaborating With State Legislators on Reform* (National Conference of State Legislators, 2005).



Relevant Reports Researched by Staff (cont.)

- *Total Estimated Cost of Child Abuse and Neglect In the United States: Statistical Evidence* (Prevent Child Abuse America, 2001).
- *Annual Report of the Dispute Resolution Systems and Administrative Services* (Virginia Department of Education, Division of Special Education and Student Services, 2004-2005).
- *Report of the Subcommittee to the Study the Administrative Hearing and Adjudication of Special Education Disputes* (Administrative Law Advisory Committee, 2001).
- *A Integrated Policy and Plan to Provide and Improve Access to Mental Health, Mental Retardation and Substance Abuse Services for Children, Adolescents and Their Families* (Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, 2006).
- *Health and Human Resources Secretariat Consolidation* (Virginia Department of Planning and Budget, 1990).

Relevant Reports Researched by Staff (cont.)

- *Child and Family Services Review, Program Improvement Plan* (Virginia Department of Social Services, 2005).
- *Child and Family Services Review: Statewide Assessment* (Virginia Department of Social Services, 2003).
- *Semiannual Report* (Office of the Inspector General For Mental Health, Mental Retardation and Substance Abuse Services, 2004).
- *Review of Child House; A Report in a Series on the Operation and Performance of Protective Services in Virginia Virginia's Social Services System* (Joint Legislative Audit and Review Commission, 2005).
- *State Ombudsman Programs* (U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin, 2005).



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Departments and Government Entities

- 2-1-1 Virginia
- Community Services Boards
- Department of Criminal Justice Services
- Department of Education
- Department of Health
- Department of Juvenile Justice
- Department of Medical Assistance Services
- Department of Mental Health, Mental Retardation and Substance Abuse Services
- Department of Social Services
- Guardians ad Litem for Children
- Office of Comprehensive Services for At-Risk Youth and Families
- Office of Protection and Advocacy
- Office of the Attorney General
- Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services



Commissions, Boards and Other Entities

- Advisory Committee on Child Abuse and Neglect
- Advisory Committee on Juvenile Justice
- Child Day-Care Council
- Child Support Guidelines Review Panel
- Commission on Youth
- Community Integration Advisory Commission
- Community Integration for Virginians with Disabilities
- Disability Commission
- Joint Commission on Health Care
- Joint Legislative Audit and Review Commission
- State Child Fatality Review Team
- State Crime Commission
- State Executive Council for Comprehensive Services for At Risk Youth and Families
- Virginia Board for People with Disabilities

Department of Education (DOE)

| Office | Program | Key duties | Statute |
|----------------------------|------------------|---|---|
| Office of Student Services | Parent Ombudsman | <ul style="list-style-type: none"> ■ Acts as a source of information and referral. ■ Aids in answering individuals' questions. ■ Assists in the resolution of concerns and issues. ■ Serves as a resource to parents in non-legal special education matters. ■ Advocates for fairness. ■ Advocates for the process. | Created by DOE in response to a recommendation from the <i>Code Commission's</i> Administrative Law and Advisory Committee, 2002. |



Virginia Commission on Youth

DOE (cont.)

| Office | Programs |
|--|---|
| Office of Dispute Resolution and Administrative Services | <ul style="list-style-type: none">■ Formal Complaint Procedures■ Statewide Special Education Mediation System (SSEMS)■ Due Process Hearing System |
| Office of Federal Program Monitoring | <ul style="list-style-type: none">■ Complaint and Allegations Investigations |
| Office of Private Day Schools for Students with Disabilities | <ul style="list-style-type: none">■ Complaint Procedures |

DOE

Formal Complaint Procedures

- The most desirable method is to resolve complaints informally prior to filing a formal complaint.
- Complaints may be filed by any individual, organization or individual from another state.
- Complaints must include a statement that a local school division has violated the Individuals with Disabilities Education Improvement Act (IDEA), its regulations or special education regulations in Virginia.
- If a formal complaint is filed with DOE, a ten-day period is allowed for the parties to resolve their differences before an investigation begins.



DOE

Formal Complaint Procedures (cont.)

- During the investigation period, the Office determines which laws, regulations and procedures govern a particular allegation.
- DOE determines if there are areas of noncompliance with law or regulation.
- A "Letter of Findings" is sent to the complainant and the school division.
- Federal and state laws and regulations require that a determination be made on a complaint within 60 calendar days.
- An appeal process is available.

DOE

Statewide Special Education Mediation System

- Assists in convening and conducting meetings to clarify issues, focus on the needs of a child, and explore and evaluate possible solutions in a confidential setting.
- Participation in mediation is voluntary on the part of both parties.
- Any issue regarding a child's eligibility for special education services or their provision, scope or delivery may be mediated at any time.
- Attorneys and advocates may act only as advisors and cannot formally represent the party during mediation sessions.
- If mediation fails, then other avenues are available:
 - Filing a formal complaint;
 - Requesting due process.



DOE

Due Process Hearing System

- The due process hearing is an impartial procedure used to resolve disagreements over issues related to special education services that arise between a parent and a school division.
- The right of the parent or school division to request a due process hearing is guaranteed by federal and state laws governing the education of children with disabilities.
- The cost of a due process hearing is shared by the school division and DOE. The proceedings are at no cost to the parent unless they choose to hire an attorney.
- Due process hearings can be requested on an expedited or non-expedited basis. Expedited hearings are reserved for disciplinary matters.



DOE

Due Process Hearing System (cont.)

- The hearing officers are appointed by the Virginia Supreme Court and serve in rotation.
- If the parties are unsuccessful in reaching an agreement during the resolution session, or if they wish to waive this requirement, they may utilize the Statewide Special Education Mediation System to resolve their dispute.
- If no resolution is reached, the hearing officer conducts a hearing and issues a decision.
- Federal and state laws and regulations require that the hearing process be completed within 30 school days for expedited hearings and 45 calendar days for non-expedited hearings.



DOE

Office of Federal Program Monitoring

- Responsible for the licensing and monitoring activities for residential facilities and private day special education schools serving children with disabilities.
- The licensing of the residential facilities is part of a coordinated effort under Virginia's Interdepartmental Licensing Office with the Departments of DJJ, DSS, DMHMRSAS and DOE.
- The four departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Service; and Social Services are responsible for complete and prompt investigation of all complaints and allegations at the facilities where they have regulatory authority, and for notification of the appropriate persons or agencies when removal of residents may be necessary. Suspected criminal violations shall be reported to the appropriate law enforcement authority.



DOE

Office of Private Day Schools for Students with Disabilities

- Schools are required to establish and provide to parents, students, and placing agencies an internal complaints resolution process. In the event that the complainant is not satisfied with the internal resolution or prefers, they may file a complaint with the Office of Private Day Schools for Students with Disabilities.

Department of Juvenile Justice (DJJ)

| Office | Programs | Statutes |
|---------------------------------|--|---|
| Office of the Inspector General | <ul style="list-style-type: none"> ■ Ombudsman Program (<i>including Ward Grievance Coordinator and Youth Advisory Committees</i>) ■ Inspector General | <ul style="list-style-type: none"> ■ Code of Virginia § 66-3.1, § 63.2 ■ Department of Juvenile Justice Administrative Directive 04-801 |



DJJ

Complaint Procedures

- In accordance with the *Code*, when there are allegations of abuse of a ward under the age of 18, the facility having custody of the ward promptly notifies the Virginia Department of Social Services (DSS). Following notification to DSS, the facility superintendent or designee will notify the Inspector General as soon as practicable, but no later than the next business day.
- All instances of alleged abuse of a ward, whether or not DSS decides to investigate the allegation and whether or not the ward is under the age of 18, will be reported through the Department's incident reporting process. The Inspector General's Office will receive copies of all serious incident reports.

DJJ Inspector General

- Prevents, detects and/or exposes criminal activity, waste, abuse, corruption, serious misconduct or mismanagement that relates to the DJJ's operations or personnel.
- Will not recommend disciplinary actions or other personnel action.
- May recommend improvements to correct any weaknesses that are identified within any investigations conducted.



DJJ Ombudsman

- May investigate any problem that is identified during a juvenile correctional center visit or brought by a parent, family member or private citizen.
- Examines juvenile correctional center practice as it relates to DJJ's policies and procedures.
- Negotiates solutions and remedies for identified concerns.
- Possesses unrestricted access to wards, administrators and staff.



DJJ

Ward Grievance Coordinator

- Serves as a youth advocate in each facility and works with Ombudsman on living conditions, treatment of youth, due process violations, human rights violations or inadequate service delivery issues.
- Reports to the Ombudsman monthly on the number of grievances filed, what they were about, how many were founded and unfounded and descriptions of remedies.



DJJ

Youth Advisory Committee

- Provides a means for youth to have input into the juvenile correctional center issues.
- Youth are given an opportunity to voice concerns and have input into the Youth Advisory Committee meeting agendas.
- Ward Grievance Coordinator logs the concerns that are presented at the meetings and then presents these concerns to the juvenile correctional center administration for consideration.



Virginia Commission on Youth

Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS)

| Office | Programs | Statutes |
|---|---|---|
| Human Rights | <ul style="list-style-type: none">■ Rights of Consumers■ Complaint Process (<i>Human Rights Advocates, Local Human Rights Committees and the State Human Rights Committee</i>) | <ul style="list-style-type: none">■ Code of Virginia § 37.2-400■ Human Rights Regulations 12 VAC 35-115-10 et seq. |
| Infant & Toddler Connection of Virginia | <ul style="list-style-type: none">■ Administrative Complaint■ Mediation■ Due Process Hearing | <ul style="list-style-type: none">■ Individuals with Disabilities Education Act (IDEA)■ Code of Federal Regulations §300.660■ Code of Virginia § 221.214E |
| Office of Licensing (OL) | <ul style="list-style-type: none">■ Children's residential■ Children's community services | <ul style="list-style-type: none">■ Code of Virginia § 37.2-400-422■ 12 VAC 35-105, 22 VAC 42-10, 12 VAC 35-35 |

DMHMRSAS Human Rights

- Monitor compliance with the human rights regulations.
- Advocate for the rights of persons with disabilities in service delivery systems.

Advocates

- Each state facility has at least one advocate assigned, with regional advocates located throughout the State who provide a similar function for consumers in community programs.
- Advocates represent consumers whose rights are alleged to have been violated and perform other duties for the purpose of preventing rights violations.
- Investigate complaints, examine conditions that impact consumer rights and monitor compliance with the human rights regulations.

DMHMRSAS

Human Rights (cont.)

Local Human Rights Committees

- Serve as an external component of the human rights system.
- Review consumer complaints not resolved at the program level.
- Review and make recommendations concerning variances to regulations.
- Review program policies, procedures and practices.
- Make recommendations for change.
- Conduct investigations.
- Review restrictive programming.



DMHMRSAS

Human Rights (cont.)

State Human Rights Committee

- Acts as an independent body to oversee the implementation of the human rights program.
- Receives, coordinates and makes recommendations for revisions to regulations.
- Reviews the scope and content of training programs.
- Monitors and evaluates the implementation and enforcement of the regulations.
- Hears and renders decisions on appeals from complaints heard but not resolved at the Local Human Rights Committee level.



DMHMRSAS

Infant & Toddler Connection of Virginia

Administrative Complaint

Concern alleged violations of policies and procedures by:

- Any public agency that receives Part C funds;
- Other public agencies that are involved in Virginia's early intervention system;
- Private service providers who receive Part C funds on a contract basis from a public agency to carry out a given function or provide a given service;
- Private Part C participating agencies that have agreed to abide by Part C policies and procedures by signing local or state interagency agreements or memorandums of understanding to that effect; and
- An organization/individual from another state.

An individual or organization may file a written, signed complaint of alleged violation(s).

DMHMRSAS

Infant & Toddler Connection of Virginia (cont.)

Mediation

- A voluntary process freely agreed to by parents and providers as an attempt to resolve Part C disagreements.
- This is a formal procedure conducted by a qualified and impartial mediator concerning individual child complaints (i.e. complaints that generally affect only a single child or the child's family) about the identification, evaluation or placement of the child or the provision of services under Part C of IDEA.
- Mediation may occur simultaneously with the due process hearing process.
- Mediation must be completed within 15 calendar days of receipt of the written complaint.
- NOTE: Mediation cannot be used to deny or delay a due process hearing or any other rights and safeguards under Part C.

DMHMRSAS

Infant & Toddler Connection of Virginia (cont.)

Due Process Hearing

- This is a formal procedure conducted by an impartial hearing officer concerning individual child complaints (i.e. complaints that generally affect only a single child or the child's family) about the identification, evaluation or placement of the child or the provision of services under Part C of IDEA.
- Any parent of a child may file a request for resolution of a disagreement by a due process hearing.
- The Infant & Toddler Connection of Virginia Office must ensure within 30 calendar days of receipt of the written complaint a written decision is provided to both parties.



DMHMRSAS Office of Licensing

- Monitors all licensed services at least annually.
- Investigates all complaints. Parents or others may make complaints or providers can self-report potential complaints. In addition, CPS and the Office of Human Rights report complaints to OL for joint investigations.
- Investigates to determine if there were violations of standards. Violations are cited and issued to providers for corrective action. Investigative reports and violations are provided to complainants.
- Requires local providers to report all serious injuries and deaths to the OL. These are reviewed to determine if there is a need for further investigation.
- Provides information to the Comprehensive Services Act Coordinators and local departments of social services about serious incidents and founded complaints.



Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services (OIG)

- Provides inspections of and makes policy and operational recommendations for state facilities and for providers...in order to prevent problems, abuses and deficiencies in and improve the effectiveness of their programs and services.
- Provides oversight and conducts announced and unannounced inspections of state facilities and of providers, including licensed mental health treatment units in state correctional facilities, on an ongoing basis in response to specific complaints of abuse, neglect or inadequate care and as a result of monitoring serious incident reports and reports of abuse, neglect or inadequate care or other information received. Conducts unannounced inspections at each state facility at least once annually.

OIG (cont.)

- Keeps the Governor, General Assembly and the Joint Commission on Health Care fully and currently informed by means of reports...concerning significant problems, abuses and deficiencies relating to the administration of the programs and services of state facilities and of providers.
- Reviews, comments on and makes recommendations about, as appropriate, any reports prepared by DMHMRSAS and the critical incident data collected by DMHMRSAS...to identify issues related to quality of care, seclusion and restraint, medication usage, abuse and neglect, staff recruitment and training, and other systemic issues.
- Receives reports, information and complaints from the Virginia Office for Protection and Advocacy (VOPA) concerning issues related to quality of care provided in state facilities and by providers, including licensed mental health treatment units in state correctional facilities, and to conduct independent reviews and investigations.



Office of Comprehensive Services Act for At-Risk Youth and Families (CSA)

| Programs | Statutes |
|---|-------------------------------|
| ■ Community Policy and Management Team | ■ Code of Virginia § 2.2-5204 |
| ■ Family Assessment and Planning Team | ■ Code of Virginia § 2.2-5207 |
| ■ State and Local Advisory Team | ■ Code of Virginia § 2.2-5201 |
| ■ State Executive Council for Comprehensive Services for At Risk Youth and Families | ■ Code of Virginia § 2.2-2648 |



CSA Funding Structure

DSS

State and Local Foster Care
Foster Care Purchased
Services

DOE

Private Tuition
Interagency Assistance

Other

Interagency
Consortium

DJJ

286 Special Placements
239 Special Placements

DMHMRSAS

Substance Abuse Services
Purchased Beds for
Adolescents

CSA Purpose

As mandated by *Code*, create a collaborative system of services and funding that is child-centered, family-focused and community-based when addressing the strengths and needs of troubled and at-risk youths and their families in the Commonwealth.

- Ensure that services and funding are consistent with the Commonwealth's policies of preserving families and providing appropriate services in the least restrictive environment, while protecting the welfare of children and maintaining the safety of the public;
- Identify and intervene early with young children and their families who are at risk of developing emotional or behavioral problems, or both, due to environmental, physical or psychological stress;



CSA

Purpose (cont.)

- Design and provide services that are responsive to the unique and diverse strengths and needs of troubled youth and families;
- Increase interagency collaboration and family involvement in service delivery and management;
- Encourage a public and private partnership in the delivery of services to troubled and at-risk youths and their families; and
- Provide communities flexibility in the use of funds. Authorize communities to make decisions and be accountable for providing services in concert with these purposes.



CSA

State and Local Advisory Team (SLAT)

SLAT is established to better serve the needs of troubled and at-risk youths and their families by advising the Council by managing cooperative efforts at the state level and providing support to community efforts.

Community Policy and Management Team (CPMT)

CPMT shall manage the cooperative effort in each community to better serve the needs of troubled and at-risk youths and their families and to maximize the use of state and community resources.

Family Assessment and Planning Team (FAPT)

FAPT shall assess the strengths and needs of troubled youths and families who are approved for referral to the team and identify and determine the complement of services required to meet these unique needs.



Virginia Commission on Youth

Virginia Office for Protection and Advocacy (VOPA)

| Programs | Statutes |
|-------------------------|--|
| Advocacy | <ul style="list-style-type: none">■ Code of Virginia § 51.5-39.7■ Virginians with Disabilities Act Program <p><u>Federal programs that fund services within Office</u></p> |
| Ombudsman (unfunded) | <ul style="list-style-type: none">■ Developmental Disabilities Program■ Protection and Advocacy for Individuals with Mental Illness Program■ Client Assistance Program■ Assistive Technology Program■ Protection and Advocacy of Individual Rights Program■ Protection and Advocacy for Beneficiaries of Social Security Program■ Traumatic Brain Injury Program■ Help America Vote Act Program |



VOPA

Overall Function of Office

- Assists with disability-related problems, such as abuse, neglect and discrimination.
- Provides disability information and resources, explain rights and responsibilities, and give guidance on solving disability-related problems.
- Investigates cases that fall within the annual goals, objectives and case selection criteria of the Office.



VOPA 2005-2006 Goals

To ensure that:

- People with disabilities are free from abuse and neglect.
- Children with disabilities receive an appropriate education.
- People with disabilities have equal access to government services.
- People with disabilities live in the most integrated environment possible.
- People with disabilities are employed to their maximum potential.
- People with disabilities have equal access to appropriate and necessary healthcare.
- People with disabilities in Virginia are aware of the Office's services.



VOPA

Ombudsman Services for Persons with Disabilities (unfunded)

As stated within *Code*:

The Director shall establish procedures for receiving complaints and conducting investigations for the purposes of resolving and mediating complaints regarding any activity, practice, policy, or procedure of any hospital, facility or program operated, funded or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Department of Rehabilitative Services, the Department of Social Services, or any other state or local agency, that is adversely affecting the health, safety, welfare or civil or human rights or any person with mental, cognitive, sensory or physical disabilities.



VOPA

Ombudsman Services for Persons with Disabilities (cont.)

VOPA is not a part of the Executive Branch and thus did not develop a Service Area Plan. However, VOPA is committed to demonstrating whether the pilot project is effective and efficient.

Performance Measure(s):

Children with disabilities, ages 0-3, will have issues with disability related service providers resolved at the lowest appropriate level.

Input:

- 1 Program Administration Specialist I (Disability Service Ombudsman) to provide ombudsman services
 - ½ Administrative & Office Specialist III
 - Executive Director's time for oversight
 - Contracting for outside mediation services
-



Virginia Commission on Youth

VOPA

Ombudsman Services for Persons with Disabilities (cont.)

Output Measure:

- 100 requests for ombudsman services will be processed.
- 1 publication describing VOPA's ombudsman services will be developed.
- 1 mass mailing to parent and advocacy groups.

Outcome Measure:

- 25 children with disabilities will have issues with disability related services providers addressed.
- 25 children with disabilities will receive mediation services.
- 50 parents, family/caregivers and advocates will receive information about disability rights.

Fiscal Impact:

FY 2007: \$ 131,740

FY 2008 : \$ 130,224



Virginia Commission on Youth

Department of Social Services (DSS)

| Programs | Office | Statutes |
|---|--|---|
| Child Protective Services (CPS) | ■ Local Agency | ■ CPS Policy |
| CPS Regional Program Specialists | ■ Division of Family Services | ■ 22 VAC 40-705- 50(F)(3); 22 VAC 40-730- 60(A)(C) |
| Due Process Administrative Hearing | ■ DFS, Local Agency, Office of Appeals, Circuit Courts | ■ Code of Virginia § 63.2-1526 |
| Independent court procedures | ■ Juvenile and Domestic Relations Court | ■ Code of Virginia § 16.1-251; 252; 253; 278.2 |
| Customer Services Unit, CPS and FC Regional Program Specialists | ■ Division of Family Services | |
| CPS and FC Regional Program Specialists | ■ Division of Family Services | |



DSS

Child Protective Services (CPS)

- Supervisors approve the work and administrative findings of social workers before closure of investigations/family assessments and review the work of open service cases every 90 days.

CPS Regional Program Specialists

- Allegations of abuse involving fatalities or near-fatalities are reported to Regional Program Specialists who provide consultation for the investigation and administrative finding.
- Allegations of abuse involving out-of-family caretakers (e.g. schools, residential facilities, etc.) are reported to Regional Program Specialists, who provide consultation for the investigation and administrative finding.



DSS

Due Process Administrative Hearing

Appeal process for administrative findings of abuse/neglect as a result of CPS investigations into allegations against parents/caretakers of children. Within 45 days of request by p/c, local director or designee meets with p/c in a local, informal conference to discuss finding. Finding may be upheld, amended or reversed. Result may be appealed to:

- State Hearing Officer holds an administrative hearing on the finding if requested within 30 days of local conference decision. Appellant has opportunity to review their written file, be represented by counsel and present witnesses and documents as evidence. State Hearing Officer has subpoena power for the production of documents or to compel the attendance of witnesses at a hearing. Finding may be upheld, amended or reversed.
- Circuit Court holds hearing on finding. Finding may be amended. No further appeal rights are available.



Virginia Commission on Youth

DSS

Independent Court Procedures

Oversight and final decision-making of CPS and Foster Care (FC) cases involving emergency removals, protective orders and determination of custody of children are provided by a judge of the local JDR Court. Emergency removal orders, preliminary removal orders and protective orders are reviewed within 5 business days. FC cases are heard within 75 days of removal at the dispositional hearing and reviewed by the court again minimally every 6 months thereafter. Additional services and oversight are provided by:

- Court-appointed Guardian ad Litem (GALs) assigned to represent the best interests of the child separate from the parents/caretakers and local agency;
- Court-appointed Special Advocates (CASA) assigned as community volunteers (where available) to further advocate for the child;
- Court-appointed attorneys provided at no cost to parents/caretakers not able to afford private representation; and
- Circuit Court which hears appeals of JDR Court decisions.



DSS

Customer Services Unit, CPS and FC Regional Program Specialists

- Constituent complaints that are child/case-specific or refer to the work of a local agency are directed to regional program specialists who:
 - Contact the constituent and review the concern;
 - Contact local agency staff and review the record;
 - Ensure law, regulations, policy, and best practices are followed in each case;
 - Resolve/mediate concerns as best possible.
- ** It should be noted that social services are state supervised but locally administered. Local agencies maintain authority for all case and personnel decisions.



DSS

CPS and FC Regional Program Specialists

- CPS and FC Program Specialists provide periodic review of cases to ensure that law, regulations and policy are followed.
- Specialists then provide technical assistance, consultation and training to ensure that child-focused outcomes of safety, permanency and well-being are achieved.
- Formal Quality Management Reviews assess a local agency in four areas: management, financial management, program performance and compliance are performed by regional program specialists.
- Process includes case reviews, staff interviews and a self assessment. Focus is to assist the agency in providing quality delivery of social service programs.
- Through a contract with Virginia Tech, a sample of cases from every local department is reviewed yearly with written feedback to each agency.

JLARC Report on Child Protective Services Research (2005)

- Are reasonable decisions being made in alleged child abuse and neglect cases that are consistent with State law and the State's policy of protecting children, while preserving family life where possible?
- Are local child protective services units providing or arranging for the provision of needed services for children and families?
- Do local child protective services units have the staff resources necessary to fulfill their mission and statutory responsibilities?
- Does the State provide adequate support to localities?
- Is there adequate coordination and collaboration between CPS units and other local governmental entities in fulfilling CPS goals and statutory responsibilities?
- Are there patterns or trends regarding abuse and neglect cases in Virginia that warrant further review?



JLARC Report on CPS Major Findings

- The decisions being made at key points in the CPS process appear to have a reasonable basis and are supporting the goals of protecting children from further abuse or neglect while preserving families to the extent possible, but response times are too slow in some of the less serious cases.
- In most cases reviewed that involved serious harm or the threat of serious harm to a child, CPS units intervened reasonably when they had the opportunity to potentially prevent the abuse or neglect, but in a few instances they could have taken further action.
- Local CPS units appear to be making reasonable decisions and taking reasonable actions regarding the identification and monitoring of services for families, but in some localities CPS staff want to provide more services to a greater number of families, and some services are not sufficiently available.



JLARC Report on CPS Major Findings (cont.)

- The State Department of Social Services generally appears to be providing adequate operational support to local CPS units.
- Most local CPS units appear to have manageable caseloads, but some may not.
- Changes regarding how cases are tracked, how children who are abusers or neglectors are treated, and the 60 day case disposition requirement would improve the CPS system in Virginia.
- Localities around the State have implemented innovative practices and programs to administer more effectively protective services to children and families.



JLARC Report on CPS Recommendations

- The Department and Board of Social Services should examine the issue of slow response times by child protective services to cases referred for investigations or family assessments and consider options for reducing delays in responding to cases. One option that should be considered is whether specific response time requirements need to be established.
- The State Department of Social Services should conduct a comprehensive analysis of the extent to which child protective services units may not have adequate staff to effectively manage their caseloads and the cause of the problem, as well as proposed solutions to address it.
- The Department and Board of Social Services should evaluate the current inconsistency among localities in tracking child protective service referrals as investigations or family assessments and consider taking appropriate measures to further standardize the tracking process.



JLARC Report on CPS Recommendations (cont.)

- The Virginia General Assembly may wish to consider amending the *Code* of Virginia to further protect the rights of children alleged to have committed abuse. Two options that could be considered are requiring: (1) the removal of the name of any child from the Central Registry at the age of 19 if the last act of abuse or neglect committed by the child was when the child was younger than the age of 14, or (2) all cases that involve an alleged perpetrator under the age of 14 be handled as family assessments and not as investigations.
- The Virginia General Assembly may wish to consider amending §§ 63.2-1505 and 1506 of the *Code* of Virginia to provide that time delays that are beyond the control of child protective services workers shall not be computed as part of the 45-day or 60-day time period for completing investigations or family assessments, if a local CPS unit provides written justification for the time extension to the State Department of Social Services.

Presentation Outline

- Summary and Activities of Study
- Summary of Public Hearings and Comments
- Summary of Advisory Group Activities
- Current Children's Services Structure in Virginia
- Recommendation Options



Finding and Recommendations

Finding

- *In December 2003, the Joint Legislative Audit and Review Commission (JLARC) directed staff to conduct a two-year study of the child protective services (CPS) program in Virginia. JLARC reported its findings and recommendations to the Governor and General Assembly in 2005 (Review of Child Protective Services in Virginia, House Document 21, 2005). JLARC reported that one of the concerns raised by some CPS supervisors is that caseloads of their workers are too high, which makes it difficult for them to fulfill their statutory responsibilities. JLARC recommended that DSS should conduct a comprehensive analysis of the extent to which child protective services units may not have adequate staff to effectively manage their caseload and the cause of the problem. (cont.)*

Finding and Recommendations (cont.)

Finding (cont.)

JLARC also reported that some localities around the state have implemented innovative practices and programs to administer more effectively protective services to children and families.

In studying the establishment of an Office of Children's Services Ombudsman, several local departments of social services reported their concern about the high level of caseloads and the need for increased funding for direct service programs to children and their families to the Commission on Youth. These service programs may assist local departments of social services in administering child welfare services more effectively to children and their families. These programs include Structured Decision-Making, Concurrent Planning, Training for Foster and Adoptive Parents and the Kinship Care Federal Waiver.

Finding and Recommendations (cont.)

Recommendation 1:

- Request that the Virginia Department of Social Services report its findings from the workload study of Structured Decision Making conducted by the Children's Research Center to the Commission on Youth prior to the 2008 General Assembly Session. The study will determine whether local departments of social services need additional resources to implement Structured Decision-Making.

Recommendation 2:

- Request that the Virginia Department of Social Services report its findings from various innovative practices and programs, including Concurrent Planning, Training for Foster and Adoptive Parents, and the Kinship Care Federal Waiver, that some local departments of social services have implemented to more effectively administer child welfare services to the Commission on Youth prior to the 2008 General Assembly Session.

Recommendation Options

- i. Continue to study the establishment of an Office of Children's Services Ombudsman.
- ii. Create an Advisory Group of child-serving agencies to study ways to strengthen the current children's services system within the current funding structure.
- iii. Establish an Office of Children's Services Ombudsman.
- iv. Establish an Office similar to the Virginia Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.
- v. Support the Virginia Office of Protection and Advocacy's funding proposal for the ombudsman services for persons with disabilities.
- vi. Defer decision(s) until the next Commission on Youth meeting.
- vii. Take no action.



Next Steps

Option: Continue to study the establishment of an Office of Children's Services Ombudsman

Advisory Group's recommendation to the Commission on Youth

- Convene a small group of stakeholders (including GALs, parents, youth, foster care youth councils, CASA, advocates within the system and those who speak for children within CPS).
- Determine the scope and population of children that the Office would serve.
- Determine the services that the Office would provide.
- Identify gaps within the current system.



Next Steps

Option: Continue to study the establishment of an Office of Children's Services Ombudsman (cont.)

Advisory Group's recommendation to the Commission on Youth

- Invite children's services ombudsman offices from other states to speak to the Advisory Group, particularly from states that have locally administered social service systems.
- Determine the basic principles and administrative structure of the Office.
- Make recommendations prior to the 2008 General Assembly Session.



Next Steps

Option: Create an Advisory Group of child-serving agencies to study ways to strengthen the current children's services system

- Identify the most appropriate and efficient mechanisms to strengthen the current system within the current funding structure.
- Identify and quantify problems within the current system. Continue to identify and review studies and reports on child-serving agencies in the executive branch.
- Review statutory requirements (federal, state, local and agency) on child-serving agencies in the executive branch and study the current processes in relation to statutory requirements.
- Identify gaps within the current child-serving system.
- Make recommendations prior to the 2008 General Assembly Session on ways to improve the current system.

Next Steps

Option: Establish an Office of Children's Services Ombudsman

- Determine which child-serving agencies would fall under the Office.
- Determine whether private entities would be included, along with public entities.
- Determine the administrative authority of the Office (i.e. conduct investigations, serve as a resource, make system improvements recommendations, advocate, conduct inspections, make external reports, have legal authority, have subpoena authority, have a screening/triage mechanism).

Next Steps

Option: Establish an Office of Children's Services Ombudsman (cont.)

- Carefully define the administrative authority of the Office.
- Determine the placement and structure of the Office (i.e. executive, legislative, independent, judicial; one central ombudsman office, regional offices, one central with regional offices, etc.).
- Determine and identify the funding structure of the Office (i.e. government funding, grants, foundations, etc.).

Next Steps

Option: Establish an Office similar to the Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services

- **Option 1:** Create an Office similar to the Office of the Inspector General for MHMRSAS.
- **Option 2:** Create a children's services ombudsman within the Office of the Inspector General for MHMRSAS.
- Determine the most appropriate option in consultation with the Office of the Inspector General.
- Draft legislative proposal.
- Determine fiscal impact.

Recommendation Options

- i. Continue to study the establishment of an Office of Children's Services Ombudsman.
- ii. Create an Advisory Group of child-serving agencies to study ways to strengthen the current children's services system within the current funding structure.
- iii. Establish an Office of Children's Services Ombudsman.
- iv. Establish an Office similar to the Virginia Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.
- v. Support the Virginia Office of Protection and Advocacy's funding proposal for the ombudsman services for persons with disabilities.
- vi. Defer decision(s) until the next Commission on Youth meeting.
- vii. Take no action.